

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of)

PUBLIC UTILITIES COMMISSION)

Instituting a Proceeding to Investigate)
Proposed Amendments To the Framework)
For Integrated Resource Planning.)
_____)

Docket No. 2009-0108

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PUBLIC UTILITIES
COMMISSION

MOTION TO INTERVENE OF
HAIKU DESIGN AND ANALYSIS
AND
CERTIFICATE OF SERVICE

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MOTION TO INTERVENE OF HAIKU DESIGN AND ANALYSIS

Carl Freedman, dba Haiku Design and Analysis (HDA) respectfully applies to be admitted as an intervenor in Docket No. 2009-0108.

HDA is a consulting firm located on the Island of Maui providing services in the field of public utility planning and regulatory affairs. HDA is registered as a business in the State of Hawaii as a sole proprietorship in the name of James Carl Freedman dba Haiku Design and Analysis, 4234 Hana Hwy., Haiku, Hawaii 96708.

1. Nature of applicant's statutory or other right to participate.

HDA relies on (a) the Rules of Practice and Procedure Before the Public Utilities Commission, Hawaii Administrative Rules, Title 6, Chapter 61, (b) Hawaii Revised Statutes, Chapter 91 – Administrative Procedures, and (c) the Commission's "Order Initiating Investigation," in this docket, dated May 14, 2009, which established the docket and identifies procedures for intervention.

2. Nature and extent of the applicant's interest.

HDA is a consulting firm providing services in the subject area of public utility planning and regulation. HDA is an active participant in several venues in Hawaii serving the public interest, pro bono, in promoting sound energy policy. These venues include, for example, participation in the Act 95 proceedings of the Public Utility Commission of the State of Hawaii (Commission) and service on the Hawaii Energy Policy Forum's Steering Committee and as Chair of its Regulatory Reform Working Group. HDA's interests in this proceeding are (a) to serve the public's interests generally by assisting the Commission to adopt sound regulatory and energy policies and (b) to preserve HDA's interests and standing as a consulting firm that is knowledgeable, apprised of events and active in the field of utility regulation.

3. The effect of the outcome of the proceeding on applicant's interest.

The instant proceeding will consider amending the Framework for Integrated Resource Planning (IRP Framework) that applies to all of Hawaii's energy utilities. Amendments to the IRP Framework will have broad effects on many aspects of public utility planning and regulation. The outcome of this proceeding will clearly affect the applicant's interests described in section (2) above.

4. Other means available whereby the applicant's interest may be protected.

There are no other practical means to serve the applicant's interests. By opening the instant docket the Commission has determined that the issues regarding amendment of the IRP Framework for Hawaii's energy utilities will be decided in this contested case proceeding. In its Order Initiating Investigation, the Commission has identified intervention

or participation in this proceeding as a proper means to address the issues identified in this proceeding and to provide comments to the Commission.

5. Extent to which applicant's interest will not be represented by existing parties.

HDA's interests described in section (2) will not be fully represented by the existing parties. The existing parties in this proceeding are energy utilities and the Consumer Advocate. None of these parties represent all of HDA's interests identified in section (2) above.

6. Extent to which applicant's participation can assist in the development of a sound record.

HDA has expertise in the specific subject matter and issues of the instant docket. HDA provided services in several prior dockets before the Public Utilities Commission of the State of Hawaii. HDA's principal, Carl Freedman, represented the Blue Ocean Preservation Society as an intervenor in Docket No. 6617, the docket that originally considered integrated resource planning in the State of Hawaii and resulted in the existing IRP Framework. Carl Freedman was an active participant in the collaborative in Docket No. 6617 and helped draft many of the principals and features incorporated in the existing IRP Framework. As a consultant to the Consumer Advocate, HDA reviewed and provided testimony regarding each of the initial integrated resource plans filed by each of Hawaii's energy utilities pursuant to the IRP Framework in Docket Nos. 7257, 7258, 7259, 7260 and

7261.¹ On behalf of the Consumer Advocate, Carl Freedman also served on the IRP advisory groups of each of Hawaii's energy utilities.

7. Extent to which applicant's participation will broaden the issues or delay the proceeding.

Applicant's participation will not broaden the issues or delay the proceeding. HDA will abide by the procedural order and schedule of proceedings that will be adopted in this docket.

8. Extent to which the applicant's interest in the proceeding differs from that of the general public.

Applicant's interest is different from the general public as described in section (2) above.

9. Whether the applicant's position is in favor or opposition to the relief sought.

HDA is in favor of amendments to improve the IRP Framework but not necessarily the specific amendments identified in Attachments 1 and 2 to the Order Initiating Proceeding in this docket.

Regarding the question of interest and standing in determining a party's right to intervene in this proceeding.

The instant docket is an investigative proceeding initiated by the Commission to establish policies that will apply broadly to all investor-owned electric utilities in the State of Hawaii. Although this docket is a contested case proceeding, the purposes of the proceeding, the issues it addresses and the context of the proceeding in establishing policies

¹ These dockets considered the review of the initial integrated resource plans filed by the Hawaiian Electric Company, Inc. (7257); Maui Electric Company, Ltd. (7258); Hawaii Electric Light Company, Inc. (7259), Kauai Electric Division (7260); and The Gas Company (7261).

to be broadly applied, all fall entirely within the Commission's legislative "rulemaking" function as it is generally conceived in the principles of administrative law.

For example, all of the purposes and issues in this proceeding could alternatively be addressed in the context of a rulemaking proceeding as provided in HRS Chapter 91.

Although initiated as a quasi-judicial contested case proceeding, the purpose of the docket is not to determine facts that will be applied to a specific application according to existing rules and precedents. Rather, the purpose is to establish new policies that will be applied broadly (i.e. to all investor owned electric utilities and perhaps to some extent to all energy utilities). In a formal rulemaking proceeding that would similarly address the determination of new policies to be applied broadly there would be no restriction whatsoever on who would have a right to provide the guidance upon which the Commission could rely.

The contested case format for the policy making purposes of the instant docket is appropriate and well accepted. When addressing the question of standing in determining the right of applicants to intervene and participate, however, the Commission should consider the essentially legislative purposes and context of the proceeding and should be deliberately permissive. The standard for assessing the interest, standing and right to intervene in a contested case proceeding that focuses primarily on broad policy matters that could alternatively be addressed by formal rulemaking procedures should be the same as the standard used in formal rulemaking procedures: categorically permissive.

Based on the foregoing, Carl Freedman, dba Haiku Design and Analysis respectfully requests that the Commission grant this motion to intervene in Docket No. 2009-0108.

Dated: June 1, 2009; Haiku, Hawaii

Signed: CARL FREEDMAN
Carl Freedman
dba Haiku Design and Analysis

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Motion to Intervene upon the following entities, by causing a copy to be mailed, first class, postage prepaid, and properly addressed:

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Dated: June 1, 2009; Haiku, Hawaii

Signed: CARL FREEDMAN
Carl Freedman